

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SANITEC INDUSTRIES, INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 04-1386-JJF
)	
SANITEC WORLDWIDE, LTD.,)	
)	
Defendant.)	

PLAINTIFF'S MOTION FOR VOLUNTARY DISMISSAL

Plaintiff Sanitec Industries, Inc. ("Industries") moves, pursuant to Fed. R. Civ. P. 41(a)(2), to dismiss this action without prejudice against defendant, Sanitec Worldwide, Ltd. ("Worldwide"). As a result of a decision in California litigation, two former defendants here, Jeffrey J. Weinstein and James H. Smith, have been determined to have no ownership interest in Worldwide. Instead, James Harkess, a director, officer and shareholder of Industries, has been determined to be the person that owns and controls Worldwide. Industries is essentially suing itself and there is no need to continue this action.

March 2, 2006

THE BAYARD FIRM

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ORDER

Whereas, plaintiff, Sanitec Industries, Inc. ("Industries"), filed this action against defendants, Sanitec Worldwide, Ltd. ("Worldwide"), Jeffrey J. Weinsten ("Weinsten") and James H. Smith ("Smith"), on October 25, 2004.

Whereas, the Superior Court of Los Angeles County, California, in a case captioned *Harkess v. Quinn, et al.*, No. 311681, rendered judgment that, *inter alia*, two former defendants here, Weinsten and Smith or any entity affiliated with them, have no ownership interest in Worldwide and enjoined them and all persons acting in concert with them from asserting any such interest. Instead, James Harkess ("Harkess"), a director, officer and shareholder of Industries, has been determined to be the person that owns and controls Worldwide by reason of his ownership of Windsor Holdings, LLC. As a result, Industries is essentially suing itself and there is no need to continue this action.

Whereas, Worldwide failed to timely respond to requests for admissions served by Industries and as a matter of law the requests are deemed to be true, including pertaining to the ownership of Worldwide.

Whereas, as a result of the foregoing, Industries moves to dismiss this action against the remaining defendant, Worldwide, without prejudice, pursuant to Fed. R. Civ. P. 41(a)(2), it is hereby

ORDERED that Industries' motion for voluntary dismissal without prejudice is GRANTED; and it is hereby further

ORDERED that each party shall bear its own costs.

SIGNED this ____ day of _____, 2006.

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned counsel certifies that, on March 2, 2006, he electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will send automatic notification of the filing to the following

David L. Finger, Esq.
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The undersigned further certifies that copies of the foregoing were sent to the above counsel by hand on March 2, 2006.

/s/ Richard D. Kirk (#922)